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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,909	03/13/2001	Kenneth S. Ehrman	ID-3	7706

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EXAMINER

JASMIN, LYNDIA C

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 01/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/804,909

Applicant(s)

EHRMAN ET AL.

Examiner

Lynda C Jasmin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

Therefore, the "data collection database" (claim 1, line 19), the "analysis means" (claim 3, line 2), the "timing means and sensing to determine and store periods of time" (claim 10, lines 2 and 3), and the "activation means" (claim 14, line 12) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 3, 9, 10 and 14 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification fails to provide an adequate written description of the "analysis means for interpreting factors relevant to the meaning of a particular fuel level sensor

readings" and "correlation means to evaluate a vehicle fuel tank as being filled..." as mentioned in claim 3. Further, the specification does not provide adequate written description of the "store maintenance information unique to the vehicle" as mentioned in claim 9. Also, the specification fails to adequately describe "timing means and sensing means to determine and store periods of time in which the vehicle is located in said lot to determine efficiency in vehicle processing" as mentioned in claim 10. Further, the specification fails to adequately describe the "activating means" as mentioned in claim

14. *No new matter will be allowed to be entered into the specification or drawing figures.*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, the recitation "said personal identification" lacks proper antecedent means.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-9, and 11-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Strong (6,006,148).

Strong discloses an automated vehicle rental, return and billing system as claimed where each vehicle (32), to be rented and removed from a vehicle renting lot (36), has a unique vehicle identifier (device ID 218, via field 208), with the lot having at least two of the vehicles (col. 4, lines 59-61), and wherein each vehicle is provided with transmitter/receiver means and memory storage means (264) linked thereto (col. 5, lines 20-58), with the vehicle identifier being initially stored in memory storage means (col. 7, lines 40-55). Each of the vehicles (32) further includes odometer reading sensor means (via 350) operatively linked to an odometer of the vehicle (col. 8, line 51 through col. 9, line 19) and where each of the vehicle further has fuel sensor means (via 330) linked to a fuel level sensor of the vehicle (via 410). The system of Strong further includes a data collection data base (via 52) and means for enabling each of the transmitter/receiver means to communicate with the data collection data base, while the vehicle is returned to a vehicle rental lot, to transmit stored final odometer reading and fuel level to the data collection data base for remote calculation of charges and check-in of the vehicle when the vehicle is returned to the vehicle rental lot (col. 12, lines 4-32). Each of the transmitter/receiver means is adapted to separately communicate with the database without interference with communication from another of the transmitter/receiver means (col. 11, lines 64 through col. 12, line 2).

Strong further discloses a check out site in operative communication with the transmitter/receiver means with means at the site for printing out a rental agreement

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having personal identification, vehicle identification, rental options, and credit card information, (via pre rental status information) and where the check-out site has a terminal with correlative personal and vehicle identification transmitted thereto by one of data collection data base and transmitter/receiver means for user as a security check prior to permitting the vehicle to exit the vehicle rental lot (col. 10, line 64 through col. 11, line 13).

Also, Strong further discloses the fuel sensor means (330) further includes analysis means for interpreting factors relevant to the meaning of a particular fuel level sensor readings for the vehicle under varying vehicle operating conditions, the analysis means (via processor 260) for interpreting factors relevant to the meaning of a particular fuel level sensor readings for the vehicle under varying vehicle operating conditions, has correlation means to evaluate a vehicle fuel tank as being filled when the vehicle is not moving and the fuel in the fuel tank is simultaneously rising (col. 10, lines 23-38).

Strong further discloses the transmitter/receiver means provides information of location thereof within the rental lot and information related to the vehicle to which it is attached to mapping means for tracking location and readiness of the vehicle for re-renting (col. 9, line 59 through col. 10, line 7).

Strong further discloses at least two vehicles are mapped on the mapping means for tracking location and whereby vehicle system operations can be prioritized on the vehicles as a function of vehicle location and type of vehicle and wherein a real time automated inventory of available vehicles is obtainable from the mapping means (col. 4, line 56 through col. 5, line 18). The transmitter/receiver means (282, 284) of the

individual vehicles (32) are capable of communicating with each other and the database to provide the information of location (col. 8, lines 20-31).

Strong further discloses at least one of the odometer and fuel sensing means and transmitter/receiver means is interchangeable between different vehicles and wherein the at least one of the odometer and fuel sensing means and transmitter/receiver means is programmable to adapted to be operable for the different vehicles (col. 4, lines 26-33).

Strong further discloses a personalized greeting display which is visible at or proximate to lot which displays a personalized message to a driver of the vehicle with personalized information transmitted thereto by transmitter/receiver means (col. 11, lines 20-26).

Strong further discloses storage means is adapted to store maintenance information unique to vehicle (col. 11, lines 41-55).

Strong further discloses fixed node devices (via 58) capable of communication with the transmitter/receiver means, with each other and the data collection data base are disposed with the rental lot to facilitate communication of data and position of vehicles within the lot (col. 4, lines 13-33).

Strong further discloses identification of a renter of the vehicle is associated in the memory storage means during a pre-determined rental period (col. 6, lines 51-56).

Strong further discloses the vehicle further contains data entry means for the renter to enter personal identification and desired rental options and credit card charging means and wherein the transmitter/receiver means stored the personal

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identification in memory storage means and transmits personal identification, desired rental options and credit card information to the data collection data base while the vehicle is in the vehicle rental lot and wherein the data collection data base and the transmitter/receiver transmits validation instructions to validate permission for removal of the vehicle from the rental lot, and to enable activation of the vehicle with activation means the data entry means are removable and adapted to be positioned and operatively linked to transmitter/receiver means in other vehicles (col. 12, line 29 through col. 13, line 10).

Functional recitation(s) using the word “capability of” and “adapted to” as recited in claims 1, 6, 7, 9 and 15 have been given little patentable weight because they fail to add any function and are thereby regarded as intended use language. A recitation of the intended use of the claimed invention must result in additional steps. See *Bristol-Myers Squibb Co. v. Ben Venue Laboratories, Inc.*, 246 F.3d 1368, 1375-76, 58 USPQ2d 1508, 1513 (Fed. Cir. 2001).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of



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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strong (6,006,148), in view of Flick (6,507,786).

Strong discloses all the elements of the claimed invention, but fails to explicitly disclose the transmitter/receiver means further comprises timing means and sensing means to determine and store periods of time in which the vehicle is located in lot to determine efficiency in vehicle processing.

The US Patent to Flick discloses the concept of having a time with each occurrence of the vehicle remaining stationary for greater than the predetermined period via monitoring station (30) which time stamp received information.

From this teaching of Flick, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Strong include the monitoring station taught by Flick for the purpose of determining the efficiency of transaction processing for each of vehicle.

**Conclusion**

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Carroll et al (4,398,172) discloses the vehicle monitor apparatus.

Eckelt (5,206,643) discloses the system for managing a plurality of motor vehicles.

Bunn (6,240,365 B1) discloses an automated vehicle tracking.

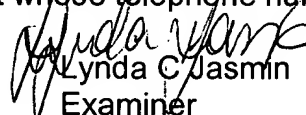
Chou et al. (6,330,499 B1) discloses a system that monitors and diagnoses vehicle.

Lawrence et al. (6,505,106 B1) discloses an analysis and profiling of vehicle data.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda C Jasmin whose telephone number is (703) 305-0465. The examiner can normally be reached on Monday- Friday (8:00-5:30) alternate Fridays off.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1113.

  
Lynda C Jasmin  
Examiner  
Art Unit 3627

lj  
January 23, 2003